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SERVICE DATE - OCTOBER 7, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34554]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The

Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF), pursuant to a written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), has agreed to grant local trackage rights to UP¹ over a BNSF line of railroad extending from BNSF milepost 579.3 near Mill Creek, OK, to BNSF milepost 631.1 near Joe Junction, TX, a distance of approximately 51 miles.²

¹ The trackage rights are only temporary rights, but, because they are “local” rather than “overhead” rights, they do not qualify for the Board’s class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). See Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights, STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, UP has concurrently filed a petition for partial revocation of this exemption in STB Finance Docket No. 34554 (Sub-No. 1), Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company, wherein UP requests that the Board permit the proposed local trackage rights arrangement described in this notice to expire on or about December 31, 2004. That petition will be addressed by the Board in a separate decision.

² The trackage rights involve BNSF subdivisions with non-contiguous mileposts. Therefore, total mileage does not correspond to the milepost designations of the endpoints.

The transaction was scheduled to be consummated on September 24, 2004.

The purpose of the trackage rights is to permit UP to move loaded and empty ballast trains for use in its maintenance-of-way projects.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.-Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34554 must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: September 29, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary